

ORDINANCE NO: \_\_\_\_\_

AN ORDINANCE AMENDING VALLEY COUNTY CODE, TITLE 1, CHAPTER 8, SECTION 4, TO CLARIFY THAT MULTI-FAMILY HOUSING PROJECTS OF FIVE OR MORE UNITS WILL QUALIFY FOR CERTAIN TAX EXEMPTIONS; TO UPDATE AND ORGANIZE THE REQUIREMENTS OF THIS SECTION TO CLARIFY PROCEDURES FOR THE APPLICATION AND REVIEW OF TAX EXEMPTION REQUESTS PURSUANT TO IDAHO CODE § 63-602NN AND THIS SECTION.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF VALLEY COUNTY, IDAHO, THAT VALLEY COUNTY CODE, TITLE 1, CHAPTER 8, SECTION 4, BE AMENDED AS FOLLOWS:

Section 1-8-4 is hereby amended as follows:

1-8-4 TAX EXEMPTION FOR NON-RETAIL COMMERCIAL AND INDUSTRIAL DEVELOPMENT

1-8-4 AUTHORITY and PURPOSE:

~~An ordinance to provide for property tax exemptions for non-retail commercial and industrial development pursuant to Idaho Code sections § 63-602NN, 31-714, 31-801, and 31-828; and, Article 12, Section 2, Idaho Constitution.~~

~~The purpose is to provide objective criteria for determining the amount of incentive tax relief that is proportional to the significant economic benefits produced by the proposed project.~~

~~Since property tax incentives effectively shift the tax burden to other taxpayers, it is important that significant benefits accrue to the public good, primarily in the form of high paying jobs and increased property values. As a result, exemptions should not be granted unless the Board of County Commissioners find that a combination of direct and indirect benefits to the community from the proposed project substantially exceed the projected cost of the tax shift.~~

~~Since property tax incentives effectively delay new construction values to be added to the budgets of service providers, it is important that the effect to the service provider is considered and determined that the delay of tax receipts will not impede necessary services.~~

The Board of County Commissioners is authorized to grant certain tax exemptions for qualifying projects, up to five (5) years, for non-retail commercial and industrial development pursuant to Idaho Code §§ 63-602NN, 31-714; and, Article 12, Section 2, Idaho Constitution.

The purpose of this section is to define qualifying projects, establish an application process, and provide the criteria for evaluating the level of tax relief to be authorized.

A. Plant Investments: Qualifying Projects:

1. Any taxpayer may apply for property tax exemptions for new and existing project sites that have not been placed upon the tax rolls previously, provided there is a plant investment that meets all the incentive criteria set forth by Valley County and pursuant to Idaho Code § 63-6022NN. An application for property tax exemption under this section may include an investment in new or existing plant and building facilities. Plant and building facilities include buildings, structural components of buildings, related parking facilities, food service facilities, business office facilities and other building facilities directly related to the business making the plant investment.
2. New plant investments will not be less than \$500,000 (cumulative), at all project sites within Valley County for which the exemption shall apply. If a remodel of existing approved use, then the remodel has to be more than \$500,000. An investment in any qualifying project shall not be less than \$500,000 at all project sites within the county.
3. Plant and building facility investments do not include the investment in land or any infrastructure.
4. A renovation or remodel of an existing plant or building facility may be considered under this section if the investment in the renovation or remodel is \$500,000 or greater.
5. Plants, building facilities, structural components of buildings and personal property associated with a plant or building facility must be owned or leased by the applicant in order to qualify under this section.
6. Plant can only be for non-retail purposes that are either commercial or industrial.
  - a. Multi-use projects are acceptable so long as more than \$500,000 is non-retail.
  - b. Multi-family housing projects qualify if there are more than five (5) units.
  - c. Housing units can only be for long-term workforce housing and not short-term rentals or sold separately i.e. condominiums.Plants and building facilities are eligible for property tax exemption under this section if the investment will be used for nonretail purposes that is either commercial or industrial. Qualifying non-retail commercial or industrial plants or building facilities may include:
  - (i) Multi-use plants or building facilities that includes an investment of \$500,000 or more in non-retail space.
  - (ii) Multi-family housing projects that include five or more units.
  - (iii) Qualifying multi-family housing projects do not include stand-alone units that are sold separately, such as condominiums, and housing units that occupancy is offered to any tenant for less than one hundred and eighty (180) days.
7. Applicant Mmust be in compliance with Title 9 of the Valley County Code.

B. Preliminary Negotiations Application Process:

Any taxpayer may apply for property tax exemptions under this section for new or existing project sites provided the project proposal will meet all the criteria outlined in Idaho Code § 63-6022NN and this section.

Prospective applicants, or their authorized agents, may request to meet with the Board to engage in preliminary negotiations and discussions regarding eligibility incentives. Applicants may operate under a pseudonym and meetings may be held in executive session under Idaho Code § 74-206(1)(e) if an agent of the prospective applicants with authority to negotiate is present, and when approved by the Board. ~~Criteria to consider for acceptance of an application is as follows:~~

- ~~— 1. Demonstrates and certifies that "but for the incentive," the business would not locate in Valley County but would locate at another specific locale.~~
- ~~— 2. Creates jobs that pay competitive wages that exceed the average wage (including benefits).~~
- ~~— 3. Demonstrates significant indirect economic benefits.~~
- ~~— 4. Agrees to all terms and conditions imposed by the Board, including, but not limited to, recoupment provisions that might encumber project property.~~
- ~~— 5. And/or, the Board determines it is in the best interest of Valley County and will be a beneficial use.~~

Prior to completing an application, prospective applicants should prepare a written project plan that addresses all requirements under Idaho Code § 63-6022NN and this section. The project plan can be used during preliminary negotiations and must be included as part of any application. A document showing the nature and timing of investments and proposed exemptions should be part of the project plan.

1. Application must be made prior to construction, including receiving a building permit and beginning excavation at the project site.
2. Application shall be on a form provided by the Valley County Assessor's Office. A sample form can be found under the Assessor's Office on the Valley County website.
3. The application shall include a written project plan.
4. The application may be filed under a pseudonym, but no application will be granted until
  - (a) the applicant has secured the right to obtain the property, and
  - (b) the applicant is prepared to make the project public.
4. The application package shall contain ten complete copies unless more are requested.
5. Once a complete application is received, the Board will schedule a public meeting and invite the public, all affected taxing districts, West Central Mountains Economic Development Council, urban renewal agencies and the Idaho department of commerce to participate.

- C. Project Plan: Prior to completing an application, prospective applicants should prepare a written project plan that addresses all requirements under Idaho Code 63-602NN. The project plan can be used during preliminary negotiations, and must be included as part of any application. A spreadsheet showing the nature and timing of investments and proposed exemptions should be part of the project plan. Evaluation of Application:

Requests for a property tax exemption under this section will be considered by the Board taking into account comments received from affected parties and the criteria outlined in Valley County Code §§ 1-9-1 et seq. In addition, the Board will evaluate the following:

1. Information provided by the applicant that demonstrates or certifies that "but for the incentive," the business would not locate in Valley County.
2. The investment will create jobs that pay competitive wages that exceed the average wage, including benefits.
3. The investment will provide significant indirect economic benefits.
4. The applicant is willing to agree to all terms and conditions imposed by the Board, including, but not limited to, recoupment provisions that might encumber project property.

D. Applications/Approval Process: Board Consideration of Application:

- ~~1. Application must be made prior to construction i.e. building permits/excavation.~~
  - ~~2. Application shall be on a form provided by the Valley County Assessor's Office. A sample form can be found under the Assessor's Office on the Valley County website.~~
  - ~~3. Shall include a project plan.~~
  - ~~4. The application can be filed under a pseudonym, but no application will be granted until a) the applicant has secured the right to obtain the property, and b) the applicant is prepared to make the project public.~~
  - ~~5. Upon acceptance of a complete application, the Assessor shall notify the Valley County Clerk. The application package will contain ten (10) complete copies unless more are requested.~~
  - ~~6. The Clerk shall place a public meeting on the Board's agenda and notice will be provided as required in IC 63-602NN(5), as follows:
    - ~~a. A written summary of the application under consideration.~~
    - ~~b. Include the date, time, and location of the public meeting.~~
    - ~~c. The notice shall be an invitation to participate in the meeting to all affected taxing districts, urban renewal agencies, West Central Mountains Economic Development Council, and the Idaho Department of Commerce at least five (5) calendar days before the meeting.~~~~
- ~~5. And/or, the Board determines it is in the best interest of Valley County and will be a beneficial use.~~

Approvals or partial approvals of an application for a property tax exemption under this section is at the sole discretion of the Board of County Commissioners and will be based on a

determination that the approval, or partial approval, is in the best interest of Valley County. The Board retains full authority to structure the duration and terms of any exemption granted as deemed appropriate and in accordance with Idaho Code § 63-602NN. The Board may consider:

1. Whether the application demonstrates that the proposed project(s) will meet the minimum plant investment and building facilities investment requirements set forth in Idaho Code § 63-602NN.
2. Whether approval of an application will result in significant economic benefits to the county.

~~E. Evaluation: The application package and comments received from affected parties will be evaluated using the criteria in Appendix A of this title. After the Board approves or denies the application, the Clerk shall notify the applicant, the Assessor and all affected parties. The decision does not need to be the same date as the initial public meeting as noticed, but the decision must be made at a public meeting.~~ Additional Considerations of Application:

1. The criteria outlined in Valley County Code 1-9-1 et seq. are intended to give applicants guidance on the extent the Board is willing to grant full or partial tax exemption requests.
2. The Board may require additional information from an applicant in order to make a fully informed decision. If any information provided by the applicant includes a trade secret, as that term is defined by Idaho law, the Board may review the application materials in executive session.
3. If an application is approved, or partially approved, the applicant and Valley County shall enter into a contract as a condition of approval for the duration of the exemption period. The contract shall provide the terms and conditions upon which the exemption is granted and shall give Valley County the authority to terminate, modify, or impose additional requirements if the contract is breached or if a project ceases to qualify for the tax exemption.
4. No later than March 1 of each year, beginning the year an exemption is effective, and continuing each year thereafter until the exemption ends, each recipient of an exemption under this section shall submit a written report and certification of compliance to the Assessor's Office. The report shall contain, at a minimum, the following:
  - (i) The average number of full-time employees during the previous calendar year;
  - (ii) A schedule of employee positions, together with salaries paid, and employee benefit costs listed separately, including Employer Quarterly Unemployment Insurance Tax Report for the previous calendar year;
  - (iii) An itemized list of all new equipment and the cost and capitalization of each; and,
  - (iv) A compliance statement explaining whether recipient is in compliance with the terms and conditions of the exemption, and fully explaining any areas of non-compliance.
  - (v) The Assessor may also solicit input from service providers during the annual reporting process to determine if there have been indirect impacts not considered during the original

approval. If it is determined that there is a substantial change, it may be taken back to the Board of County Commissioners for additional review.

~~F. Application of Exemption: At the discretion of the Board, the exemption may be applied as follows using the cumulative points from 1 9 6 of this code. The table is provided only as a guideline.~~

~~Tax Percentage Reduction~~

<del>-</del>	<del>Year 1</del>	<del>Year 2</del>	<del>Year 3</del>	<del>Year 4</del>	<del>Year 5</del>
<del>210-158 Points</del>	<del>90</del>	<del>70</del>	<del>50</del>	<del>30</del>	<del>10</del>
<del>157-118 Points</del>	<del>80</del>	<del>60</del>	<del>30</del>	<del>20</del>	<del>0</del>
<del>118-89 Points</del>	<del>70</del>	<del>50</del>	<del>10</del>	<del>0</del>	<del>0</del>
<del>Less than 88 Points</del>	<del>50</del>	<del>40</del>	<del>0</del>	<del>0</del>	<del>0</del>

~~G. Annual Report and Review: No later than March 1 each year, beginning the year an exemption is effective, and continuing each year thereafter until the exemption ends, each recipient of an exemption under this title shall submit a report and certification of compliance to the Assessor's Office. The report shall contain, at a minimum, the following:~~

- ~~1. The average number of full-time employees during the previous calendar year;~~
- ~~2. A schedule of employee positions, together with salaries paid, and employee benefit costs listed separately, including Employer Quarterly Unemployment Insurance Tax Report for the previous calendar year;~~
- ~~3. An itemized list of all new equipment and the cost and capitalization of each; and~~
- ~~4. A compliance statement explaining whether recipient is in compliance with the terms and conditions of the exemption, and fully explaining any areas of noncompliance.~~
- ~~5. The Assessor may also solicit input from service providers during the annual reporting process to determine if there have been indirect impacts not considered during the original approval. If it is determined that there is a substantial change, it may be taken back to the Board of County Commissioners for additional review.~~

**NOTICE: FAILURE TO TIMELY SUBMIT A COMPLETE ANNUAL REPORT IS GROUNDS FOR TERMINATION OF THE EXEMPTION.**

**F Severability and Termination or Expiration:**

**If, within the project period, the use or nature of the defined project or investment in the new plant changes such that the project would no longer qualify for the tax exemption, the Valley County Board of Commissioners may unilaterally terminate the agreement and withdraw the tax exemption.**

UPON TERMINATION OR EXPIRATION OF THE EXEMPTION, THE PROPERTY SHALL BE VALUED FOR ASSESSMENT PURPOSES AT 100% OF CURRENT MARKET VALUE PURSUANT TO IDAHO CODE § 63-201. (Ord. 18-03, 6-25-2018; amd. Ord. 19-08, 9-30-2019)